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Mark: MOUSTACHE

MOUSTACHE

US Serial Number: 85760361

Application Filing Date: Oct. 22, 2012

Register: Principal

Mark Type: Service Mark

Status: A subsequent final has been sent (issued) to the applicant. Applicant failed to satisfy all requirements and/or refusals raised previously. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Sep. 10, 2014

Mark Information

Mark Literal Elements: MOUSTACHE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Restaurant services

International Class(es): 043 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 01, 1989

Use in Commerce: Jan. 01, 1989

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Moustache, Inc.

Owner Address: 265 East 10th Street
New York, NEW YORK 10009
UNITED STATES

Legal Entity Type: CORPORATION

**State or Country Where
Organized:** NEW YORK

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Angelo J. Bufalino

Docket Number: 43471000006

**Attorney Primary Email
Address:** abufalino@vedderprice.com

**Attorney Email
Authorized:** Yes

Correspondent

**Correspondent
Name/Address:** ANGELO J BUFALINO
VEDDER PRICE PC
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STE 2400
CHICAGO, ILLINOIS 60601
UNITED STATES

Phone: 312-609-7850

Fax: 312-609-5005

Correspondent e-mail: abufalino@vedderprice.com

Correspondent e-mail Yes
Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Sep. 10, 2014	NOTIFICATION OF SUBSEQUENT FINAL EMAILED	
Sep. 10, 2014	SUBSEQUENT FINAL EMAILED	
Sep. 10, 2014	SUBSEQUENT FINAL REFUSAL WRITTEN	81112
Aug. 29, 2014	NOTIFICATION OF SUBSEQUENT FINAL EMAILED	
Aug. 29, 2014	CONTINUATION OF FINAL REFUSAL E-MAILED	
Aug. 29, 2014	ACTION CONTINUING A FINAL - COMPLETED	81112
Feb. 28, 2014	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Feb. 28, 2014	LETTER OF SUSPENSION E-MAILED	6332
Feb. 28, 2014	SUSPENSION LETTER WRITTEN	81112
Feb. 27, 2014	EX PARTE APPEAL-INSTITUTED	760361
Feb. 27, 2014	JURISDICTION RESTORED TO EXAMINING ATTORNEY	760361
Feb. 27, 2014	EXPARTE APPEAL RECEIVED AT TTAB	
Feb. 17, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Feb. 17, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Feb. 17, 2014	TEAS REQUEST FOR RECONSIDERATION RECEIVED	
Aug. 30, 2013	NOTIFICATION OF FINAL REFUSAL EMAILED	
Aug. 30, 2013	FINAL REFUSAL E-MAILED	
Aug. 30, 2013	FINAL REFUSAL WRITTEN	81112
Aug. 21, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Aug. 20, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Aug. 21, 2013	ASSIGNED TO LIE	68171
Aug. 20, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 20, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Feb. 20, 2013	NON-FINAL ACTION E-MAILED	6325
Feb. 20, 2013	NON-FINAL ACTION WRITTEN	81112
Feb. 20, 2013	ASSIGNED TO EXAMINER	81112
Oct. 25, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 25, 2012	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information	
TM Attorney: HUSSAIN, TASNEEM	Law Office Assigned: LAW OFFICE 118
File Location	
Current Location: TMO LAW OFFICE 118- EXAMINING ATTORNEY ASSIGNED	Date in Location: Sep. 10, 2014

Proceedings

Summary	
Number of Proceedings: 1	
Type of Proceeding: Exparte Appeal	
Proceeding Number: 85760361	Filing Date: Feb 27, 2014
Status: Pending	Status Date: Feb 27, 2014
Interlocutory Attorney:	
Plaintiff(s)	

Name: Moustache, Inc.

Correspondent Address: ANGELO J BUFALINO
VEDDER PRICE PC
222 N LASALLE ST , STE 2400
CHICAGO IL , 60601
UNITED STATES

Correspondent e-mail: abufalino@vedderprice.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number

MOUSTACHE

SUBSEQUENT FINAL MAILED

[85760361](#)

Prosecution History			
Entry Number	History Text	Date	Due Date
1	APPEAL TO BOARD	Feb 27, 2014	
2	Appeal Acknowledged; Case Remanded	Feb 27, 2014	
3	INSTITUTED	Feb 27, 2014	
4	REQ FOR RECON	Feb 17, 2014	

To: Moustache, Inc. (abufalino@vedderprice.com)

Subject: U.S. TRADEMARK APPLICATION NO. 85760361 - MOUSTACHE - 43471000006

Sent: 9/10/2014 8:37:46 AM

Sent As: ECOM118@USPTO.GOV

Attachments:

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85760361	
MARK: MOUSTACHE	*85760361*
CORRESPONDENT ADDRESS: ANGELO J BUFALINO VEDDER PRICE PC 222 N LASALLE ST STE 2400 CHICAGO, IL 60601	CLICK HERE TO RESPOND TO THIS LETTER: http://www.uspto.gov/trademarks/teas/response_forms.jsp VIEW YOUR APPLICATION FILE
APPLICANT: Moustache, Inc.	
CORRESPONDENT'S REFERENCE/DOCKET NO : 43471000006 CORRESPONDENT E-MAIL ADDRESS: abufalino@vedderprice.com	

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 9/10/2014

THIS IS A FINAL ACTION.

Upon further consideration, the following Subsequent Final Office Action is now issued.

For the reasons set forth below, the refusal under Trademark Act Section 2(d) is now made FINAL with respect to U.S. Registration No. 3741577. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.64(a).

FINAL SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 3741577. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the previously enclosed registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. *See In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

Comparison of the Marks In General

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Similarity in any one of these elements may be sufficient to find the marks confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b).

Comparison of the Goods/Services in General

The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods and/or services need only be “related in some manner and/or if the circumstances

surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); *Gen. Mills Inc. v. Fage Dairy Processing Indus. SA*, 100 USPQ2d 1584, 1597 (TTAB 2011); TMEP §1207.01(a)(i).

Analysis of the Marks

Under the doctrine of legal equivalents, a pictorial representation and its literal or word equivalent may be found confusingly similar. This doctrine is based upon a recognition that a pictorial depiction and equivalent wording are likely to impress the same mental image on purchasers. TMEP §1207.01(c)(i); see, e.g., *In re Rolf Nilsson AB*, 230 USPQ 141 (TTAB 1986) (holding design comprising the silhouette of the head of a lion and the letter “L” for shoes likely to be confused with LION for shoes); *Puma-Sportschuhfabriken Rudolf Dassler KG v. Garan, Inc.*, 224 USPQ 1064 (TTAB 1984) (holding designs of mountain lion, for shirts and tops likely to be confused with PUMA for items of clothing; the design of a puma, for items of sporting goods and clothing; and PUMA and design for T-shirts).

As previously discussed, a consumer encountering the mark MOUSTACHE in connection with applicant’s restaurant services will incorrectly believe that the services originate from the same source as registrant’s moustache design restaurant services. Registrant’s design of a moustache is likely to be confused with the applicant’s wording MOUSTACHE. Furthermore, consumers calling for each of the services would use the identical wording MOUSTACHE. The broadly worded restaurant services offered by applicant encompasses the “restaurant services featuring baked and unbaked pizza, breadsticks, calzone, lasagna and garlic bread, cookies and soft drinks” offered by registrant. Applicant’s specimen of record confirms that applicant’s services also feature baked goods and drinks. As a result, because of the confusingly similar marks and closely related and potentially identical services, registration was refused under Trademark Act Section 2(d).

Ultimately, when comparing marks, the test is not whether the marks can be distinguished in a side-by-side comparison, but rather whether the marks are sufficiently similar in their entireties that confusion as to the source of the services offered under applicant’s and registrant’s marks is likely to result. *Midwestern Pet Foods, Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 1053, 103 USPQ2d 1435, 1440 (Fed. Cir. 2012); *Edom Labs., Inc. v. Lichter*, 102 USPQ2d 1546, 1551 (TTAB 2012); TMEP §1207.01(b). The focus is on the recollection of the average purchaser, who normally retains a general rather than specific impression of trademarks. *L’Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1438 (TTAB 2012); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106, 108 (TTAB 1975); TMEP §1207.01(b).

In this case, a consumer calling for or encountering applicant’s MOUSTACHE mark in connection with applicant’s services will incorrectly believe that the services originate from the same source as the registrant’s MOUSTACHE design services.

Where the marks of the respective parties are identical or virtually identical, the relationship between the relevant services need not be as close to support a finding of likelihood of confusion. See *In re Shell Oil Co.*, 992 F.2d 1204, 1207, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993); *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202 (TTAB 2009); *In re Thor Tech, Inc.*, 90 USPQ2d 1634, 1636 (TTAB 2009); TMEP §1207.01(a).

Analysis of the Services

When analyzing an applicant’s and registrant’s services for similarity and relatedness, that determination is based on the description of the services stated in the application and registration at issue, not on

extrinsic evidence of actual use. *See Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990); *see also Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 1267, 62 USPQ2d 1001, 1004 (Fed. Cir. 2002).

Absent restrictions in an application and/or registration, the identified services are presumed to travel in the same channels of trade to the same class of purchasers. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1356, 98 USPQ2d 1253, 1261 (Fed. Cir. 2011); *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d at 1268, 62 USPQ2d at 1005. Additionally, unrestricted and broad identifications are presumed to encompass all services of the type described. *See In re Jump Designs*, 80 USPQ2d 1370, 1374 (TTAB 2006); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992). In other words, to the extent that registrant's services feature certain items, "baked and unbaked pizza, breadsticks, calzone, lasagna and garlic bread, cookies and soft drinks, all for customer take-out or consumption on premises," please note that applicant has no limitation on the type of restaurant services it offers and thus encompasses and is legally identical to registrant's services.

In this case, the identifications set forth in the application and registration are identical, "restaurant services," and have no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, it is presumed that these services travel in all normal channels of trade, and are available to the same class of purchasers. *See Midwestern Pet Foods, Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 1053, 103 USPQ2d 1435, 1440 (Fed. Cir. 2012). Accordingly, the services of applicant and the registrant are considered related for purposes of the likelihood of confusion analysis.

Applicant's Arguments are Unpersuasive and Unsupported

Registrant's argument that registrant's mark is used in conjunction with wording and/or a cartoon face is irrelevant. The mark registrant applied for and received registration for is ONLY the design of the moustache. A service mark registration on the Principal Register is prima facie evidence of the validity of the registration and the registrant's exclusive right to use the mark in commerce in connection with the specified services. *See* 15 U.S.C. §1057(b); TMEP §1207.01(d)(iv). Applicant's reliance of how the mark appears in the marketplace is moot because registrant applied for and received trademark registration rights in the design of the moustache alone (the cited mark) even if it also received registration rights in other marks featuring the moustache. The registration is limited to the moustache design and thus any other features that are displayed in commerce are irrelevant in this proceeding.

Thus, evidence and arguments that constitute a collateral attack on a cited registration, such as information or statements regarding a registrant's nonuse of its mark or improper use of its mark, are not relevant during ex parte prosecution. *See In re Dixie Rests.*, 105 F.3d 1405, 1408, 41 USPQ2d 1531, 1534-35 (Fed. Cir. 1997); *In re Peebles Inc.*, 23 USPQ2d 1795, 1797 n.5 (TTAB 1992); TMEP §1207.01(d)(iv). Such evidence and arguments may, however, be pertinent to a formal proceeding before the Trademark Trial and Appeal Board to cancel the cited registration.

Applicant also attempted to argue that stylized moustaches are weak in the restaurant field. Applicant references third-party registrations for marks featuring various designs in which a moustache is featured to support the argument that this design/wording is weak, diluted, or so widely used that it should not be afforded a broad scope of protection.

First, the mere submission of a list of registrations or a copy of a private company search report does not make such registrations part of the record. *In re Promo Ink*, 78 USPQ2d 1301, 1304 (TTAB 2006); TBMP §1208.02; TMEP §710.03. To make third party registrations part of the record, an applicant must submit copies of the registrations, or the complete electronic equivalent from the USPTO's automated systems, prior to appeal. *In re Jump Designs LLC*, 80 USPQ2d 1370, 1372-73 (TTAB 2006); *In re Ruffin*

Gaming, 66 USPQ2d, 1924, 1925 n.3 (TTAB 2002); TBMP §1208.02; TMEP §710.03.

Second, the weakness or dilution of a particular mark is generally determined in the context of the number and nature of similar marks *in use in the marketplace* in connection with *similar* services. See *Nat'l Cable Television Ass'n, Inc. v. Am. Cinema Editors, Inc.*, 937 F.2d 1572, 1579-80, 19 USPQ2d 1424, 1430 (Fed. Cir. 1991); *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973).

Evidence of weakness or dilution consisting solely of third-party registrations, such as those referenced by applicant in this case, is generally entitled to little weight in determining the strength of a mark, because such registrations do not establish that the registered marks identified therein are in *actual use* in the marketplace or that consumers are accustomed to seeing them. See *AMF Inc. v. Am. Leisure Prods., Inc.*, 474 F.2d 1403, 1406, 177 USPQ 268, 269 (C.C.P.A. 1973); *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1204 (TTAB 2009); *In re Thor Tech, Inc.*, 90 USPQ2d 1634, 1639 (TTAB 2009); *Richardson-Vicks Inc. v. Franklin Mint Corp.*, 216 USPQ 989, 992 (TTAB 1982). Furthermore, the services listed in the third-party registrations relied upon by applicant are different from those at issue and thus do not show that the relevant wording is commonly used in connection with the services at issue. Additionally, none of the registrations are relevant because each of them contain other wording and distinguishing features that are completely different from the word MOUSTACHE or the design of only a moustache as is the case here.

Although applicant's arguments are unsupported and unconvincing, even if the commercial impression of a moustache (with no other wording or designs) in the restaurant industry is weak, the Court of Appeals for the Federal Circuit and the Trademark Trial and Appeal Board have recognized that marks deemed "weak" or merely descriptive are still entitled to protection against the registration by a subsequent user of a similar mark for closely related goods and/or services. *In re Colonial Stores, Inc.*, 216 USPQ 793, 795 (TTAB 1982); TMEP §1207.01(b)(ix); see *King Candy Co. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 1401, 182 USPQ 108, 109 (C.C.P.A. 1974). This protection extends to marks registered on the Supplemental Register. TMEP §1207.01(b)(ix); see, e.g., *In re Clorox Co.*, 578 F.2d 305, 307-08, 198 USPQ 337, 340 (C.C.P.A. 1978); *In re Hunke & Jochheim*, 185 USPQ 188 (TTAB 1975).

Summary of Analysis

A consumer encountering the mark MOUSTACHE in connection with applicant's restaurant services will incorrectly believe that the services originate from the same source as each registrant's moustache design restaurant services. As a result, because of the confusingly similar marks and closely related and identical services, registration is refused under Trademark Act Section 2(d) and the refusal is made FINAL.

PROPER RESPONSE TO FINAL

Applicant must respond within six months of the date of issuance of this final Office action or the application will be abandoned. 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a). Applicant may respond by providing one or both of the following:

- (1) A response that fully satisfies all outstanding requirements and/or resolves all outstanding refusals.
- (2) An appeal to the Trademark Trial and Appeal Board, with the appeal fee of \$100 per class.

37 C.F.R. §2.64(a); TMEP §714.04; see 37 C.F.R. §2.6(a)(18); TBMP ch. 1200.

In certain rare circumstances, an applicant may respond by filing a petition to the Director pursuant to 37 C.F.R. §2.63(b)(2) to review procedural issues. 37 C.F.R. §2.64(a); TMEP §714.04; *see* 37 C.F.R. §2.146(b); TBMP §1201.05; TMEP §1704 (explaining petitionable matters). The petition fee is \$100. 37 C.F.R. §2.6(a)(15).

/Ms. Tasneem Hussain/
Trademark Examining Attorney
Law Office 118
tasneem.hussain@uspto.gov (preferred)
571.272.8273

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

To: Moustache, Inc. (abufalino@vedderprice.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85760361 - MOUSTACHE - 43471000006
Sent: 9/10/2014 8:37:47 AM
Sent As: ECOM118@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **9/10/2014** FOR U.S. APPLICATION SERIAL NO. 85760361

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **9/10/2014** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the

ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.